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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:** Peppel et al.

**Docket No.:** OOMP0001C

5 **Serial Number:** 09/735,586

**Group Art Unit:** 2132

**Filed:** 12/12/00

**Examiner:** B. Lanier

**Title:** Electronic Trading Card

12 August, 2003

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Commissioner of Patents and Trademarks

Washington, DC 20231

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**APPLICANT'S RESPONSE SUBMITTED AFTER FINAL**

Sir:

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Applicant responds to the Office Action mailed 15 May 2003 as follows:

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1. Applicant thanks the Examiner for his comments, which accompanied the above-identified Office Action. In reviewing the Office Action, Applicant notes on page 4, paragraph 5, entitled "Response to Arguments" that the Examiner at this point maintains that the Durst reference "discloses electronic notary system wherein the data is time stamped and authenticated to prove that the data is authentic and the one and only therefore giving the data within this notary system a defined scarcity." Applicant also notes that Durst has only been cited by the Examiner in connection with Claims 9,13, 33, 34, and 37.

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Responsive thereto, and without acknowledging the propriety of the Examiner's basis and without conceding the Examiner's basis for rejecting Claims 9,13, 33, 34, and 37 in view of Durst, Applicant has, for the sake of expediting prosecution

of the application and only for this reason, amended the foregoing identified claims as shown in the attached set of replacement claims. In particular, Claims 9, 33, and 37 have been revised to introduce a limitation "wherein said digital content comprises any of sports material, game material, and entertainment material." Applicant notes that the subject matter of Claim 9 did not form the basis of the rejection in view of Durst and Applicant therefore concludes that this material was deemed by the Examiner to define patentable material in view of Durst. In any event, the electronic notary system of Durst is not concerned with such material and therefore would not read on claims drawn to such material, such as set forth in amended Claims 9, 33, and 37.

Applicant has also amended Claims 13 and 34 to introduce the limitation of "exchanging one or more computer code segments." In this regard, Applicant notes that dependent Claims 22 and 23 (which depend from independent Claim 13) and dependent Claims 35 and 36 (which depend from independent Claim 34) are all directed to the step of exchanging one or more data segments. Claims 22 and 35 are directed to exchanging such data segments "on writable media," while Claims 23 and 36 are concerned with exchanging such computer code segments "on-line." Again, the Examiner has not cited Durst as negating the novelty of the subject matter contained in these dependent claims. Further, there is nothing in Durst to teach the step of exchanging computer code segments, Durst again only being concerned with notarizing a single document.

In view of the foregoing, the claims are now deemed to be in allowable condition. Applicant earnestly solicits the Examiner's reconsideration in view of the claim amendments and the withdrawal of the rejections based on Durst.

Applicant submits herewith a Terminal Disclaimer in which Claim 1 herein is disclaimed to Claim 2 of U.S. patent number 6,200,216 and Claim 9 herein is disclaimed to Claim 1 of U.S. patent number 6,200,216 (see page 10, paragraphs 15 and 16 of the above identified Office Action.

### CONCLUSION

All outstanding issues being deemed resolved, the application is considered to be in allowable condition and Applicant requests that the Examiner allow the present application to pass to Issuance as U.S. letters patent. Should the Examiner deem it helpful to our resolving any outstanding issues, the Examiner is encouraged to contact Applicant's attorney, Michael A. Glenn, at (650) 474-8400 to discuss such issues.

Respectfully submitted,



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